

Internal Revenue Service, Treasury

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the amount by which the tax previously determined (as defined in section 3801(d) of the Internal Revenue Code of 1939) exceeds the tax as recomputed under section 613(d) and this section.

(f) *Adjustment to basis.* Proper adjustment shall be made to the basis of any property as required by section 113(b)(1) of the Internal Revenue Code of 1939 and 26 CFR (1939) 39.113(b)(1)-1(c) (Regulations 118) to reflect any change in the depletion allowance resulting from the application of section 613(d) of the Internal Revenue Code of 1954.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960. Redesignated by T.D. 7170, 37 FR 5374, Mar. 15, 1972]

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- (h) Depletable oil quantity.
- (i) Depletable natural gas quantity.
- (j) Barrel.
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[T.D. 8348, 56 FR 21938, May 13, 1991, as amended by T.D. 8437, 57 FR 43899, Sept. 23, 1992]

§ 1.613A-1 Post-1974 limitations on percentage depletion in case of oil and gas wells; general rule.

Except as otherwise provided in section 613A and the regulations thereunder, in the case of oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after such year, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613. In the case of a taxable year beginning before January 1, 1975, and ending after that date, the percentage depletion allowance (but not the cost depletion allowance) with respect to oil and gas wells for such taxable year shall be determined by treating the portion thereof in 1974 as if it were a short taxable year for purposes of section 613 and the portion thereof in 1975 as if it were a short taxable year for purposes of section 613A.

[T.D. 7487, 42 FR 24264, May 13, 1977]

§ 1.613A-2 Exemption for certain domestic gas wells.

(a) The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to:

- (1) Regulated natural gas (as defined in paragraph (c) of § 1.613A-7),
- (2) Natural gas sold under a fixed contract (as defined in paragraph (d) of § 1.613A-7), and
- (3) Any geothermal deposit in the United States or in a possession of the United States that is determined to be a gas well within the meaning of former section 613(b)(1)(A) (as in effect before enactment of the Tax Reduction Act of 1975) for taxable years ending

after December 31, 1974, and before October 1, 1978 (see section 613(e) for depletion on geothermal deposits thereafter),

(b) For taxable years ending after September 30, 1978, the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to any qualified natural gas from geopressured brine (as defined in paragraph (e) of § 1.613A-7), and 10 percent shall be deemed to be specified in section 613(b) for purposes of section 613(a).

(c) For special rules applicable to partnerships, S corporations, trusts, and estates, see paragraphs (e), (f), and (g) of § 1.613A-3.

(d) The provisions of this section may be illustrated by the following examples:

Example 1. A is a producer of natural gas which is sold by A under a contract in effect on February 1, 1975. The contract provides for an increase in the price of the gas sold under the contract to the highest price paid to a producer for natural gas in the area. The gas sold by A qualifies under section 613A(b)(1)(B) for percentage depletion as gas sold under a fixed contract until its price increases, but is presumed not to qualify thereafter unless A demonstrates by clear and convincing evidence that the price increase in no event takes increases in tax liabilities into account.

Example 2. B is a producer of natural gas which is sold by B under a contract in effect on February 1, 1975. The contract provides that beginning January 1, 1980, the price of the gas may be renegotiated. Such a provision does not disqualify gas from qualifying for the exemption under section 613A(b)(1)(B) with respect to the gas sold prior to January 1, 1980. However, gas sold on or after January 1, 1980, does not qualify for the exemption whether or not the price of the gas is renegotiated.

[T.D. 8348, 56 FR 21939, May 13, 1991, as amended by T.D. 8437, 57 FR 43899, Sept. 23, 1992; 58 FR 6678, Feb. 1, 1993]

§ 1.613A-3 Exemption for independent producers and royalty owners.

(a) *General rules.* (1) Except as provided in section 613A(d) and § 1.613A-4, the allowance for depletion under section 611 with respect to oil or gas which is produced after December 31, 1974, and to which gross income from the property is attributable after that